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UNITED STATES DISTRICT COURT  
 DISTRICT OF NEVADA

CARIN R. PFUHL,  
 Plaintiff,

vs.

CHASE MANHATTAN BANK USA,  
 NATIONAL ASSOCIATION,  
 a national bank,

Defendant.

No. CV-S-01-0144-RLH-LRL

**PLAINTIFF'S MOTION TO DISMISS HER AMENDED COMPLAINT  
 WITHOUT PREJUDICE**

This action was originally filed on February 6, 2001, against Chase Manhattan Mortgage Corporation (CMM). On March 8, an Amended Complaint was filed substituting Chase Manhattan Bank USA, National Association in lieu of the original Defendant.

During October, 2000, Plaintiff and CMM were ensconced in a pointed litigation arising from the April, 1998, death of Plaintiff's father, John O'Toole. The parties were actively involved in settlement negotiations. Counsel for Defendant, Gerald Waite, Esq., represented CMM in the former litigation.

The axis of Plaintiff's claims revolve around her contention that the two entities conspired to gain an unfair advantage over Plaintiff by illegally accessing Plaintiff's Trans

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1 Union, LLC, Credit Profile on October 7, 2000 (Amended Complaint,  
2 Ex. 1). The former litigation settled shortly thereafter and  
3 Plaintiff emphatically denied, *and continues to deny*, that she ever  
4 executed any authorization or credit application giving rise to the  
5 Defendant's October 7 acquisition of her Trans Union Credit  
6 Profile.<sup>1</sup>

7 On June 14, Mr. Waite produced a credit application,  
8 dated September 26, 2000 (Exhibit 1) which appears to bear  
9 Plaintiff's signature. Plaintiff immediately vigorously asserted  
10 that the application was a forgery and offered to submit to a  
11 handwriting expert/polygrapher. The Defendant has not responded to  
12 this proposal.

13 During Fall, 2000, Plaintiff was employed by Century 21.  
14 The application reflected a different entity, Idea, Inc. Plaintiff  
15 contends that Idea, Inc., was a company known to Chase, via  
16 supplemental documentation submitted in tandem with the original  
17 mortgage application *more than 10 years ago*.

18 What is additionally troubling is the nature of the  
19 application. Exhibit 1 invites the applicant to apply for a  
20 "platinum" credit line of \$100,000.00. Plaintiff's credit history,  
21 to put it **very** politely, absolutely refutes any possibility of  
22 qualifying for this line of credit at any level.

23  
24  
25 <sup>1</sup> On October 4, 2001, the Defendant propounded Requests For  
26 Admissions and other discovery which attempted to discern whether  
27 the application and the signature appearing thereon were indeed  
28 "genuine." Plaintiff states for the record that she never signed  
any such application. In light of the nature of this motion  
practice, Plaintiff will not formally respond to Defendant's  
discovery.

1           Consequently, on September 27, 2001, Plaintiff served the  
2 very succinct discovery attached as Exhibit 2. Interrogatory No. 1  
3 sought input as to precisely why Plaintiff was sent the application  
4 in the first instance, and if any information re Plaintiff was  
5 provided by any third-party **prior** to the Defendant's October 7,  
6 2000, acquisition of Plaintiff's Trans Union Report. Consonantly,  
7 Interrogatory No. 2 queried whether the Defendant had ever had any  
8 relationship with Trans Union wherein Trans Union provided it with  
9 a "target marketing list."<sup>2</sup> The Defendant has refused to respond  
10 to this discovery advising that it is beyond the scope of this  
11 litigation.

12           Exhibit 2 also reflects the two requests for production  
13 served upon the Defendant. The First Request is generic and the  
14 Second simply requests the Defendant's response to the ostensible  
15 application. As noted in the Request itself, Regulation B to the  
16 ECOA, 15 U.S.C. § 1691 et seq., requires that the credit grantor  
17 provide the consumer a written response containing its ultimate  
18 disposition re a tendered credit application and the reasons  
19 therefor.<sup>3</sup> The Defendant likewise refused contending that this  
20 Request, too, was beyond the scope of this litigation.  
21  
22  
23

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24           <sup>2</sup> In Trans Union Corp. v. F.T.C., 245 F.3d 809 (D.C. Cir.  
25 2001), the District of Columbia Circuit specifically ruled that the  
26 use of Trans Union's "target marketing lists" constituted  
impermissible activity under the FCRA.

27           <sup>3</sup> It is assumed that the Defendant would have indeed denied  
28 Plaintiff's application for the \$100,000.00 line of credit.

Respectfully submitted,

**LAW OFFICES**

**(702) 870-8700**

CERTIFICATE OF MAILING

I HEREBY CERTIFY that service of PLAINTIFF'S MOTION TO DISMISS HER AMENDED COMPLAINT WITHOUT PREJUDICE was made on this 2nd day of November, 2001, by placing a copy thereof in the U.S. Mail, first-class postage fully prepaid to the last known address of:

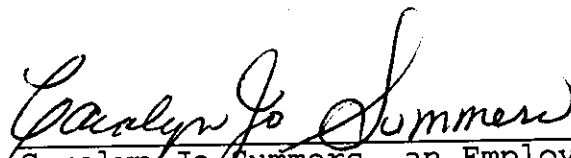
GERALD D. WAITE, ESQ.  
3800 Howard Hughes Parkway  
Seventh Floor  
Las Vegas, Nevada 89109

MARTIN J. MURPHY, Esq.  
Legal Department  
The Chase Manhattan Bank  
300 Jericho Quadrangle, 3rd Floor  
Jericho, New York 11753-2705

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Carolyn Jo Summers, an Employee of  
MITCHELL D. GLINER, ESQ.

**EXHIBITS**

**Platinum MasterCard**  
Credit Line Up To \$100,000  
Offer Expires October 17, 2000  
The following information is necessary prior to opening your account.  
PLEASE USE A BLUE OR BLACK BALLPOINT PEN.

[Signature] 9/26/00  
DATE OF SIGNATURE  
545-31-1124 9-17-2001  
RUTH O'BOYLE  
702,259-1740 (702) 367-2508  
8900.00  
IDEA, INC.  
4292 BUTTERFIELD WAY, L.V. NV 89103  
PLEASE PRINT NAME AND ADDRESS OF NEW CARDHOLDER

If you would like an additional card to transfer funds, please complete (attach) below.  
NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_  
STATE: \_\_\_\_\_  
ZIP: \_\_\_\_\_  
DATE: \_\_\_\_\_  
SIGNATURE: \_\_\_\_\_  
PLEASE PRINT NAME AND ADDRESS OF NEW CARDHOLDER

Karen R. Pugh  
4292 Butterfield Way  
Las Vegas, NV 89103-3105

AE5600947822 1110001702 BR-210358-111

216070572196

**PLATINUM MASTERCARD BALANCE TRANSFER FORM**  
Complete this form today to pay off your outstanding balances at a low APR of just the Prime Rate + 1.65 %.\*  
You can transfer one, two, or three balances to your new Platinum MasterCard.

| 1) Account Number  | 2) Account Number  | 3) Account Number  |
|--|--|--|
| Payee  | Payee  | Payee  |
| Payment Address  | Payment Address  | Payment Address  |
| STREET ADDRESS (PO BOX)  | STREET ADDRESS (PO BOX)  | STREET ADDRESS (PO BOX)  |
| CITY   | CITY   | CITY   |
| STATE  | STATE  | STATE  |
| ZIP CODE   | ZIP CODE   | ZIP CODE   |
| Enter Amount To Be Paid And Transferred  | Enter Amount To Be Paid And Transferred  | Enter Amount To Be Paid And Transferred  |
| \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> | \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> | \$ <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> |

AE5600947822

\* See reverse side for details, Summary of Terms and additional disclosures.  
\* See reverse side for Balance Transfer Disclosures.

PTD- 1

**INTERROGATORIES**

**INTERROGATORY NO. 1:**

Please explicate precisely why Plaintiff was sent the noted application. Please emphasize what criteria was used and what third-parties, if any, provided information re Plaintiff to the Defendant prior to the Defendant's acquisition of Plaintiff's report on October 7, 2000, and, if so, exactly what information was provided ("Information" as used above connotes information used by the Defendant to help effect its decision to send Plaintiff the attached application).

**INTERROGATORY NO. 2:**

Please indicate as to whether Defendant ever had a relationship with Trans Union wherein Trans Union provided Defendant with "target marketing lists." Please indicate if this relationship was extant on or before September 26, 2000.

**INTERROGATORY NO. 3:**

Please explain precisely how the Defendant acquired Plaintiff's address as reflected on the attached application.

**INTERROGATORY NO. 4:**

Please elaborate as to what relationship, if any, existed as between Plaintiff and Chase Manhattan Bank, USA, prior to September 26, 2000 (this Interrogatory does not pertain to Chase Manhattan Mortgage Corporation).

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

You are hereby requested to produce for inspection and copying at the offices of undersigned counsel on the 30th day following

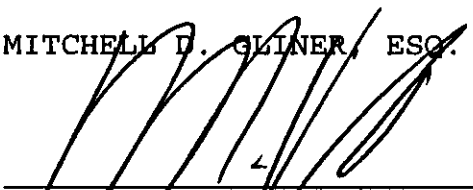
service hereof during normal working hours the following in accordance with Rule 34 of the Federal Rules of Civil Procedure:

**REQUEST FOR PRODUCTION NO. 1:** All documents identified or sought to be identified in the foregoing interrogatories or your answers thereto. Please produce any and all documents which relate, pertain to, or evidence the information sought in the foregoing interrogatories.

**REQUEST FOR PRODUCTION NO. 2:** Please provide a copy of the Defendant's response to the attached application. This request reflects the Defendant's 25-month retention requirement under Federal Reserve Board Regulation B (Reg. B, 12 C.F.R. §§ 202.9 and 202.12(b)) to the Equal Credit Opportunity Act (ECOA), 15 U.S.C. § 1691 et al.

DATED this 27th day of September, 2001.

MITCHELL D. GLINER, ESQ.



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